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120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Janice Hansen et al. | : | |
| Application No. 10/628,315 | : | DECISION ON PETITION |
| Filed: July 28, 2003 | : | UNDER 37 C.F.R. §1.137(B) |
| Attorney Docket Number: 79209 | : | |
| Title: ADJUSTABLE AREOLA AND | : | |
| NIPPLE PROSTHESIS | : | |

This is a decision on the petition filed on August 8, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 15, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 16, 2004. A notice of abandonment was mailed on July 14, 2005.

¹ A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, Petitioner has submitted the petition fee, the search fee, the Examination fee, the filing fee, the fees associated with the filing of excess claims, the fee associated with the late submission of an oath or declaration, a substitute specification, replacement drawings, and an executed declaration. Petitioner has further included a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED**.

The Office of Initial Patent Examination will be notified of this decision, so that the present application can receive further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).